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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/680,938 | 10/07/2003 | Kim J. Dato | JDATE.001DV1 | 6022 |
| 7590 | 07/14/2004 | | EXAMINER | |
| Robert F. Gazdzinski, Esq. Gazdzinski & Associates Suite 375 11440 West Bernardo Court San Diego, CA 92127 | | | HAUGLAND, SCOTT J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3654 | |
| DATE MAILED: 07/14/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/680,938 | DATO ET AL. | |
| | Examiner | Art Unit | |
| | Scott Haugland | 3654 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 28-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 28-44 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Objections

Claim 40 is objected to because of the following informalities: "having" should be deleted from claim 40, line 6. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 44 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially smaller" in claim 44, line 6 is a relative term which renders the claim indefinite. The term "substantially smaller" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28 and 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Cayer (U.S. Patent No. 4,369,929).

Cayer discloses a dispenser for spooled materials, comprising: a housing element 20, 50 having a recess formed therein, a plurality of spools of conditioned material 12-15 disposed substantially within the recess, and a plurality of apertures 30-33 disposed in proximity to the spools through which the materials are dispensed.

The materials on the spools is seen to be conditioned since they have been processed to make them suitable for their intended uses.

With regard to claims 40-42, apparatus disclosed by Cayer is equivalent to that formed by the recited process. The materials on the spools are curled in their wound state, at least.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-37, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cayer (U.S. Patent No. 4,369,929) in view of Goldstein (U.S. Patent No. 5,407,417).

Cayer discloses a dispenser for spooled materials, comprising: a housing element 20, 50 having a recess formed therein, a plurality of parallel spools of conditioned material 12-15 disposed substantially within the recess, a plurality of elongate apertures 30-33 disposed in proximity to the spools and co-extensive with said spools, a plurality of spindle elements 52 facilitating rotation of the spools without interference from other spools.

Cayer does not disclose quantities of curled ribbon disposed on the spools in a helical lay pattern.

Goldstein teaches storing a quantity of ribbon on a spool by winding it in a helical lay pattern on the spool.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Cayer with spools containing quantities of curled ribbon disposed on the spools in a helical lay pattern as taught by Goldstein to provide for convenient storage and dispensing of ribbon.

With regard to claims 29 and 34, the radii of the spools are necessarily substantially similar to the radii of the turns of the curled ribbon.

With regard to claims 35 and 27, the housing element is seen to be substantial planar in shape since it has major parallel planar faces.

With regard to claim 36, the housing of Cayer has the shape of a square cylinder.

With regard to claim 44, it would have been obvious to use the modified device of Cayer to store ribbons that differ in at least one attribute since Cayer teaches storing a variety of materials and it is common to require a supply of different ribbons.

With regard to claim 44, the radii of the spools appear to be substantially smaller than their length.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cayer in view of Goldstein as applied to claim 28 above, and further in view of Brown (U.S. Patent No. 987,952).

Cayer does not disclose that the distal portions of the ends of the spools do not have ribbon wound on them.

Brown teaches forming a spool for web material with distal ends (see Fig. 2) that do not have material wound on them.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the spools of Cayer with distal ends that do not have material wound on them as taught by Brown to facilitate retaining of material on the spools without interference with sides of the housing that encloses the spools.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cayer in view of Goldstein and Schwartz (U.S. Patent No. 3,948,455).

Cayer is described above.

Cayer does not disclose ribbon wound onto said spools in a substantially helical pattern or that one of the housing elements has at least a portion that is substantially transparent.

Goldstein teaches storing a quantity of ribbon on a spool by winding it in a helical lay pattern on the spool.

Schwartz teaches providing a dispenser for wound ribbon with a transparent portion to enable a user to view the ribbon in the dispenser and determine the quantities remaining.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Cayer with spools containing quantities of curled ribbon disposed on the spools in a helical lay pattern as taught by Goldstein to provide for convenient storage and dispensing of ribbon.

It would have been further obvious to make a portion of the dispenser transparent as taught by Schwartz to enable a user to view the ribbon in the dispenser and determine the quantities remaining.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Earle and Gelow are cited to show dispensers for helically wound web material. Bastin and Yuste et al are cited to show cylindrical dispensers for wound material. Calkins, Adkins, and Knox are cited to show dispensers for simultaneously dispensing a plurality of webs. Musk is cited to show a dispenser for dispensing web through an elongate slot. Schulz is cited to show a web dispenser having spool supports formed on

opposite ends of a dispensing container. Girard is cited to show a cylindrical web dispenser for simultaneously dispensing webs through a plurality of slots.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (703) 305-6498. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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7/8/04

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